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96TH CONGRESS
2D SESSION

S. 2216

To improve the intelligence system of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 24 (legislative day, JANUARY 3), 1980

Mr. MOYNIHAN (for himself, Mr. DOMENICI, Mr. WALLOP, Mr. JACKSON, Mr. NUNN, Mr. DANFORTH, and Mr. CHAFEE) introduced the following bill; which was read twice and referred to the Select Committee on Intelligence

A BILL

To improve the intelligence system of the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Intelligence Reform Act
4 of 1980".

5 SEC. 2. Section 662(a) of the Foreign Assistance Act of
6 1961, as amended (22 U.S.C. 2422(a)), is amended to read
7 as follows:

8 "No funds appropriated under the authority of this
9 chapter or any other Act may be expended by or on behalf of

1 the Central Intelligence Agency for a special activity, unless
2 and until—

3 “(1) the President finds that the activity is impor-
4 tant to the national security of the United States and
5 reports, as soon as possible, a description and scope of
6 the activity to the Select Committee on Intelligence of
7 the United States Senate and to the Permanent Select
8 Committee on Intelligence of the United States House
9 of Representatives, or,

10 “(2) the National Security Council determines
11 that the activity does not involve substantial resources
12 or risks and falls within a category of special activities
13 which category shall have been found by the President
14 to be important to the national security of the United
15 States and which finding shall have been reported to
16 the Select Committee on Intelligence of the United
17 States Senate and to the Permanent Select Committee
18 on Intelligence of the United States House of Repre-
19 sentatives.

20 For the purposes of this subsection, the term ‘special activity’
21 means an activity conducted abroad in support of national
22 foreign policy objectives which is designed to further official
23 United States programs and policies abroad and which is
24 planned and executed so that the role of the United States
25 Government is not apparent or acknowledged publicly, and

1 functions in support of such an activity, but not including
2 diplomatic activity or the collection and production of intelli-
3 gence or related support functions.”.

4 SEC. 3. Section 6 of the Central Intelligence Agency
5 Act of 1949 (50 U.S.C 403g), is amended to read as follows:

6 “In the interests of the security of the foreign intelli-
7 gence activities of the United States and in order further to
8 implement the proviso of section 403(d)(3) of this title that
9 the Director of Central Intelligence shall be responsible for
10 protecting intelligence sources and methods from unauthor-
11 ized disclosure, the Agency shall be exempted from the provi-
12 sions of any law which require the publication or disclosure of
13 the organization, functions, names, official titles, salaries, or
14 number of personnel employed by the Agency. In furtherance
15 of the responsibility of the Director of Central Intelligence to
16 protect intelligence sources and methods, information in files
17 maintained by an intelligence agency or component of the
18 United States Government shall also be exempted from the
19 provisions of any law which require the publication or disclo-
20 sure, or the search or review in connection therewith, if such
21 files have been specifically designated by the Director of
22 Central Intelligence to be concerned with: The design, func-
23 tion, deployment, exploitation or utilization of scientific or
24 technical systems for the collection of foreign intelligence or
25 counterintelligence information; special activities and for-

1 eign intelligence or counterintelligence operations; investiga-
2 tions conducted to determine the suitability of potential for-
3 eign intelligence or counterintelligence sources; intelligence
4 and security liaison arrangements or information exchanges
5 with foreign governments or their intelligence or security
6 services: *Provided*, That requests by American citizens and
7 permanent resident aliens for information concerning them-
8 selves, made pursuant to sections 552 and 552a of title 5,
9 shall be processed in accordance with those sections. The
10 provisions of this section shall not be superseded except by a
11 provision of law which is enacted after the date of this
12 amendment and which specifically repeals or modifies the
13 provisions of this section.”.

14 SEC. 4. (a) The National Security Act of 1947 is
15 amended by adding at the end thereof the following new title:
16 “TITLE V—PROTECTION OF CERTAIN NATIONAL
17 SECURITY INFORMATION

18 “PROTECTION OF IDENTITIES OF CERTAIN UNITED
19 STATES UNDERCOVER INTELLIGENCE OFFICERS,
20 AGENTS, INFORMANTS, AND SOURCES

21 “SEC. 501. (a) Whoever, having or having had author-
22 ized access to classified information that—

23 “(1) identifies as an officer or employee of an in-
24 telligence agency, or as a member of the Armed
25 Forces assigned to duty with an intelligence agency,

1 any individual (A) who in fact is such an officer, em-
2 ployee, or member, (B) whose identity as such an offi-
3 cer, employee, or member is classified information, and
4 (C) who is serving outside the United States or has
5 within the last five years served outside the United
6 States;

7 “(2) identifies as being or having been an agent
8 of, or informant or source of operational assistance to,
9 an intelligence agency any individual (A) who in fact is
10 or has been such an agent, informant, or source, and
11 (B) whose identity as such an agent, informant, or
12 source is classified information,
13 intentionally discloses to any individual not authorized to re-
14 ceive classified information any information that identifies an
15 individual described in paragraph (1) or (2) as such an officer,
16 employee, or member or as such an agent, informant, or
17 source, knowing or having reason to know that the informa-
18 tion disclosed so identifies such individual and that the United
19 States is taking affirmative measures to conceal such individ-
20 ual’s intelligence relationship to the United States, shall be
21 fined not more than \$50,000 or imprisoned not more than ten
22 years, or both.

23 “(b) Whoever with the intent to impair or impede the
24 foreign intelligence activities of the United States discloses to

1 any individual not authorized to receive classified information
2 any information that—

3 “(1) identifies as an officer or employee of an in-
4 telligence agency, or as a member of the Armed
5 Forces assigned to duty with an intelligence agency,
6 any individual (A) who in fact is such an officer, em-
7 ployee, or member, (B) whose identity as such an offi-
8 cer, employee, or member is classified information, and
9 (C) who is serving outside the United States or has
10 within the last five years served outside the United
11 States; or

12 “(2) identifies as being or having been an agent
13 of, or informant or source of operational assistance to,
14 an intelligence agency any individual (A) who in fact is
15 or has been such an agent, informant, or source, and
16 (B) whose identity as such an agent, informant, or
17 source is classified information,

18 knowing or having reason to know that the information dis-
19 closed so identifies such individual and that the United States
20 is taking affirmative measures to conceal such individual's
21 intelligence relationship to the United States, shall be fined
22 not more than \$5,000 or imprisoned not more than one year,
23 or both.

"DEFENSES AND EXCEPTIONS

1
2 "SEC. 502. (a) It is a defense to a prosecution under
3 section 501 that before the commission of the offense with
4 which the defendant is charged, the United States had public-
5 ly acknowledged or revealed the intelligence relationship to
6 the United States of the individual the disclosure of whose
7 intelligence relationship to the United States is the basis for
8 the prosecution.

9 "(b)(1) Subject to paragraph (2), no person other than a
10 person committing an offense under section 501 shall be sub-
11 ject to prosecution under such section by virtue of section 2
12 or 4 of title 18, United States Code, or shall be subject to
13 prosecution for conspiracy to commit an offense under such
14 section.

15 "(2) Paragraph (1) shall not apply in the case of a per-
16 son who acted with the intent to impair or impede the foreign
17 intelligence activities of the United States.

18 "(c) In any prosecution under section 501(b), proof of
19 intentional disclosure of information described in such sec-
20 tion, or inferences derived from proof of such disclosure, shall
21 not alone constitute proof of intent to impair or impede the
22 foreign intelligence activities of the United States.

23 "(d) It shall not be an offense under section 501 to
24 transmit information described in such section directly to the
25 Select Committee on Intelligence of the Senate or to the Per-

1 manent Select Committee on Intelligence of the House of
2 Representatives.

3 "EXTRATERRITORIAL JURISDICTION

4 "SEC. 503. There is jurisdiction over an offense under
5 section 501 committed outside the United States if the indi-
6 vidual committing the offense is a citizen of the United States
7 or an alien lawfully admitted to the United States for perma-
8 nent residence (as defined in section 101(a)(20) of the Immi-
9 gration and Nationality Act).

10 "PROVIDING INFORMATION TO CONGRESS

11 "SEC. 504. Nothing in this title shall be construed as
12 authority to withhold information from Congress or from a
13 committee of either House of Congress.

14 "DEFINITIONS

15 "SEC. 505. For the purposes of this title:

16 "(1) The term 'classified information' means information
17 or material designated and clearly marked or clearly repre-
18 sented, pursuant to the provisions of a statute or Executive
19 order (or a regulation or order issued pursuant to a statute or
20 Executive order), as requiring a specific degree of protec-
21 tion against unauthorized disclosure for reasons of national
22 security.

23 "(2) The term 'authorized', when used with respect to
24 access to classified information, means having authority,
25 right, or permission pursuant to the provisions of a statute,

1 Executive order, directive of the head of any department or
2 agency engaged in foreign intelligence or counterintelligence
3 activities, order of a United States district court, or provi-
4 sions of any rule of the House of Representatives or resolu-
5 tion of the Senate which assigns responsibility within the re-
6 spective House of Congress for the oversight of intelligence
7 activities.

8 “(3) The term ‘disclose’ means to communicate, pro-
9 vide, impart, transmit, transfer, convey, publish, or otherwise
10 make available.

11 “(4) The term ‘intelligence agency’ means the Central
12 Intelligence Agency or any intelligence component of the De-
13 partment of Defense.

14 “(5) The term ‘informant’ means any individual who
15 furnishes or has furnished information to an intelligence
16 agency in the course of a confidential relationship protecting
17 the identity of such individual from public disclosure.

18 “(6) The terms ‘agent’, ‘informant’, and ‘source of oper-
19 ational assistance’ do not include individuals who are citizens
20 of the United States residing within the United States.

21 “(7) The terms ‘officer’ and ‘employee’ have the mean-
22 ings given such terms by sections 2104 and 2105, respec-
23 tively, of title 5, United States Code.

24 “(8) The term ‘Armed Forces’ means the Army, Navy,
25 Air Force, Marine Corps, and Coast Guard.

